APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,913	10/20/2005	Do Heon Sung	CU-4480 WWP	1092

26530   7590   04/29/2009
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER
ROSEN, NICHOLAS D

ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
04/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/553,913	SUNG, DO HEON
	Examiner	Art Unit	
	Nicholas D. Rosen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All b)☐ Some * c)☐ None of:

   1.☒ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/16/2005*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06) **Office Action Summary** Part of Paper No./Mail Date 20090423

DETAILED ACTION

Claims 1-9 have been examined.

Specification

The disclosure is objected to because of the following informalities: On page 4, line 32, "who can creates" should be "who can create". On page 14, line 30, "'017 dollars'" should be "'107 dollars'". On page 20, line 7, "compute' should be "computer".

Appropriate correction is required.

Claim Objections

Claims 3 and 4 are objected to because of the following informalities: In the second line of claim 3, "further comprise" should be "further comprises". Appropriate correction is required.

Claim 6 is objected to because of the following informalities: In the seventh line of claim 6, "a certain criteria" should be either "certain criteria" or "a certain criterion", because "criteria" is properly the plural form, and "criterion" singular. Appropriate correction is required.

Claim 7 is objected to because of the following informalities: In the sixth line of claim 7, "the user information DB" technically lacks antecedent basis. Appropriate correction is required.

Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is

required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

dependent form, or rewrite the claim(s) in independent form. Claim 8 is stated to

depend on claim 1, but claim 8 recites a storage medium (article of manufacture) storing

a computer program, while claim 1 recites a method. Claim 8 therefore switches

statutory categories, which is not necessarily improper, but may be so, depending on

the literal infringement test. In this case, it would be possible to make or possess the

computer-readable storage medium recited in claim 8 without actually carrying out the

method of claim 1, thus infringing claim 8 but not claim 1. Therefore, claim 8 cannot

properly depend from claim 1.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C. 101. Based on Supreme Court

precedent and recent Federal Circuit decisions, the Office's guidance to examiners is

that a § 101 process must (1) be tied to a machine or (2) transform underlying subject

matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88

USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v.

Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972);

Cochrane v. Deener, 94 U.S. 780, 787-88 (1876).

An example of a method claim that would <u>not</u> qualify as a statutory process

would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory

process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine. Applicant's method steps fail the first prong of the new Federal Circuit decision since they do not recite transform underlying subject matter to a different state or thing. Thus, claims 1-7 are non-statutory since they may be performed largely within the human mind.

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 9 can plausibly be interpreted as reciting pure software (note page 21 of the instant specification, lines 12 and 13), and software per se is not a process, machine, manufacture, or composition of matter, and therefore not patentable. Claim 9 could be amended to make the "system" unambiguously include hardware, or an article of manufacture including software can be claimed in the format, "A computer-readable medium, containing computer-executable instructions which, when implemented by a computer, cause the computer to carry out the steps of: doing A; doing B; and doing C."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5, 6, 7, 8, and 9 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Admon (U.S. Patent Application Publication 2006/0287924) in view of

official notice. As per claim 1, Admon discloses receiving bid request data from bidders,

and registering the bid request data according to price (paragraphs 22 and 23; Figure

2); and determining one or more successful bidders according to predetermined criteria

by analyzing the bid request data that has been registered, wherein the predetermined

criteria are based on the bid price information and a number of items of the bid request

data (paragraphs 25, 27, and 28; Figure 2), and wherein the step of determining one or

more successful bidders comprises the steps of calculating a number of items of the bid

request data having been assigned to each of the bid values, and selecting a bid value

having a smallest number of items of bid request data, and selecting a bid request value

having a lowest bid price among the selected bid values, and determining one or more

bidders having registered bid request data at the selected value to be successful

bidders (paragraphs 25, 27, and 28; Figure 2). Admon does not expressly disclose

registering the bid request data in bid registration fields of a bid table corresponding to

the bid price information, but official notice is taken that fields in tables are well known.

Hence, it would have been obvious to one of ordinary skill in the art of electronic

commerce at the time of applicant's invention to define bid registration fields of a bid

table, for the obvious advantages of conveniently manipulating and/or displaying the bid

data.

Admon does not disclose determining one or more successful bidders by

analyzing bid data after an elapse of a predetermined period, but official notice is taken

that it is well known to determine one or more successful bidders after an elapse of a

predetermined period (e.g., a prescheduled end of an auction, or else a predetermined

period since a final bid was entered). Hence, it would have been obvious to one of

ordinary skill in the art of electronic commerce at the time of applicant's invention to do

so, for the obvious advantage of bringing the auction to a close after a reasonable

length of time, according to comprehensible rules that may be announced to potential

bidders.

Admon does not disclose maintaining a commodity information database for

storing commodity information of a commodity for sale at auction, and does not

expressly disclose maintaining a bid information database for storing a bid table for

registering bid request data regarding the commodity for sale at auction, but official

notice is taken that maintaining databases is well known. Furthermore, Admon

discloses a bid table, and maintaining bid request information for analysis (Figure 2;

paragraphs 27 and 28). Hence, it would have been obvious to one of ordinary skill in

the art of electronic commerce at the time of applicant's invention to maintain a

commodity information database for storing commodity information of a commodity for

sale at auction, for the obvious advantage (as in Admon, paragraph 21) of making

information of a commodity for sale at auction available to potential bidders; and to maintain a bid information database for storing a bid table for registering bid request data regarding the commodity for sale at auction, for the obvious advantage (as in Admon), of readily manipulating and analyzing bid request data.

As per claim 5, Admon does not expressly disclose maintaining a user information DB for storing one or more of a user identifier, a password, contact information and bid detail information of the bidder, although paragraphs 27 and 28, and Figure 2, can be taken as implying a user information DB for storing at least bid detail information. Also, official notice is taken that maintaining user information databases with various sorts of user data, and recording further user data in such databases, are well known. Admon discloses granting purchase rights for the commodity for sale at auction to successful bidders (paragraphs 27, 28, and 38), but does not disclose recording information about the granted priority purchase rights in the user information database, transmitting the information about the granted priority purchase rights based on the information of the successful bidders with reference to the user information database, and providing user interfaces for receiving purchase form data to the successful bidders having made confirmation responses to the transmitted information about the granted priority purchase rights, the purchase form data including a payment method or a delivery address. However, official notice is taken that it is well known to transmit information about granted priority purchase rights (e.g., "You've won the auction") based on contact information from a user information database (e.g., a user's email address, other address, or telephone number), and provide user interfaces for

bidders to confirm purchases with a payment method or delivery address. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do these things in the context recited, for the obvious advantage of notifying winning bidders and enabling them to make payment and receive the products or services that they had been granted the right to purchase.

As per claim 6, Admon does not disclose withdrawing the priority purchase rights granted to the successful bidders if confirmation responses to the information about the priority purchase rights have not been received from the successful bidders, and recording information about the withdrawal of the priority purchase rights in the user information database; and re-determining one or more successful bidders according to certain criteria by analyzing the bid request data registered in the bid table, except the bid request data input by the former successful bidders. However, official notice is taken that it is well known to withdraw an offer if acceptance is not confirmed, to record information in databases, and to re-determine an award of purchase rights, such as by analyzing bid data without the bid(s) of a bidder or bidders who have not confirmed their purchase, or have been unable or unwilling to pay for purchasing an item. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do these things in the context recited, for the obvious advantages of maintaining proper records in case of dispute, and profiting by the sale of auctioned items in the event of a first winning bidder or winning bidders not buying them.

As per claim 7, Admon does not disclose that the step of receiving the bid request data comprises the steps listed, but official notice is taken that it is well known to receive user identifiers or passwords required for user identification; authenticate bidders or other customers using input user identifiers or passwords with reference to a user information database. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the obvious advantage of assuring that bidders were who they claimed to be, rather than, for example, crooks with stolen credit card numbers, or persons banned from an auction site for past failures to do business honestly.

Admon discloses bid fees for participating in the auction (paragraphs 6, 21, 22, and 58). Admon does not expressly disclose transmitting bid fee payment request data corresponding to the received bid request data from the authenticated bidders, providing user interfaces for allowing the bidders to input bid fee payment information to the bidders, and receiving payment completion information corresponding to the input of the bid fee payment information, but official notice is taken that it is well known to transmit payment request data, providing user interfaces for allowing customers or other users to input payment information (e.g., credit card numbers and authorization), and receive corresponding payment completion information. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do these things in the particular context recited, for the obvious advantage of arranging for the payment of the fees disclosed by Admon when, for example, bids are submitted through an interactive web site (paragraph 22 of Admon).

As per claim 8, this is essentially parallel to claim 1; additionally, office notice is taken that computer-readable storage media storing computer programs for causing computers to carry out methods. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have such a computer-readable storage medium storing a computer program, for the obvious advantage of enabling a server computer to carry out an online auction (as per Admon, paragraph 22).

As per claim 9, this is essentially parallel to claim 1, and rejected on the same grounds.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Admon and official notice as applied to claim 1 above, and further in view of Bril (U.S. Patent 7,392,215). Admon discloses registering the time at which bid request data is input (paragraph 32), but does not disclose that the step of determining the bidders comprises the step of, if two or more bidders are determined to be successful bidders, comparing priorities of the bid request data that the successful bidders have registered, and determining a single bidder having a highest priority to be a final successful bidder, wherein the priorities are calculated according to information about time when the bid request data are input, but it is well known for priority between equal bids in actions to be given to the bidder whose bid was received earlier, as taught, for example, by Bril (column 5, lines 4-7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to compare priorities of the bid request data according to information about time, and to determine a single

bidder having a highest priority to be a final successful bidder, for the obvious
advantages of somehow resolving the question of which bidder of equal bid prices is to
be sold the item, and encouraging bidders to bid early, increasing interest in the auction
and perhaps leading to a higher winning bid.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Admon and official notice as applied to claim 1 above, and further in view of Herzog et
al. (U.S. Patent Application Publication 2004/0059663). As per claim 3, Admon does
not disclose bid price information including an upper limit and a lower limit of the bid
price information, but Herzog teaches an upper limit for bid price information (paragraph
29). Hence, it would have been obvious to one of ordinary skill in the art of electronic
commerce at the time of applicant's invention for the commodity information to include
an upper limit of the bid price information, for the stated advantage of enabling buyers to
acquire a product or service at a below market price (paragraphs 10 and 11 of Herzog).

Official notice is taken that it is well known for auctions to have lower limits for bid
price information (e.g., a minimum starting bid). Hence, it would have been obvious to
one of ordinary skill in the art of electronic commerce at the time of applicant's invention
for the commodity information to include a lower limit of the bid price information, for the
obvious advantage of assuring that an item will not be sold for less than a minimum
price, avoiding a loss to the seller.

As per claim 4, Admon does not disclose a bid table including one or more bid
registration fields falling between the upper and lower limits of the bid price range
information, but official notice is taken that it is well known to have fields permitting the

entry or selection of information only within an allowed range, or possessing allowed values. Admon discloses manipulations of the bid request data that imply sorting the data in order of price magnitude (paragraphs 27 and 28). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the bid table to include one or more bid registration fields falling between the upper and lower limits of the bid price range information, for the obvious advantages of conveniently entering the bid data correctly, and easily manipulating and analyzing the bid data.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gindlesperger (U.S. Patent 6,397,197) discloses an apparatus and method for obtaining the lowest bid from information product vendors. Sheffield (U.S. Patent Application Publication 2007/0174171) discloses an auction system in which the successful bidder is determined by selecting the lowest unique bid with the fewest bidders (see paragraph 72) (the publication is of interest, but the priority date is not good).

Seo (KR 2005 005815-A) discloses a method and system for auction using wired/wireless Internet through a mobile phone or web site (the publication is of interest, but the priority date is not good).

Glasgow ("Information Technology Insights: Online Trading of Chemicals in the post-Enron Environment") discloses online trading, including reverse auctions, where a purchaser tries to get low prices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D. Rosen/
Primary Examiner, Art Unit 3625
April 24, 2009